

6. TYPES OF FINANCIAL ASSISTANCE FUNDS AND AWARDS

Federal funding for grants and cooperative agreements may be classified on the basis of the amount of discretion that DOC has in making funding decisions. The two broad classifications for types of funds are "discretionary funds" and "nondiscretionary funds."

A. Discretionary Funds. Discretionary funds are those funds for which DOC can exercise its judgment in selecting to whom the funds are awarded. It is the policy of DOC that discretionary funds be provided only after maximum practicable competition among eligible entities. There are, however, instances where awards are recommended for funding without full and open competition. The three types of awards made with discretionary funds are discussed below.

1. Competitive Awards. These awards are made after a Federal Funding Opportunity Notice has been published in the *Federal Register* and an FFO posted at Grants.gov, and DOC has chosen a proposal based on merit review and the application of established evaluation and selection criteria. The DOC may also treat as competitive an award that was solicited and reviewed through another federal agency's competitive process or through a competitive solicitation process developed by several federal agencies acting in partnership. See Chapter 19 of this Manual for instructions in preparing *Federal Register* notices and FFOs announcing the availability of financial assistance funds. Program officials are encouraged to publicize notices through Internet announcements, mailing lists, presentations at conferences, professional journals, trade association newsletters, and other media that are available and accessible to potential applicants.

2. Institutional Awards

a. These awards are made with the intent to maintain a long-term partnership between DOC and the recipient for those projects established under long term planning goals and objectives common to the research and programmatic needs of both parties. Renewals may be made on a noncompetitive basis if the recipient performs satisfactorily. While this type of award is intended to accommodate a long-term relationship between DOC and recipients, the individual awards should not exceed a five-year period. The initial solicitation shall be the same as that for competitive awards. If a recipient of an institutional award is performing in an unsatisfactory manner, that recipient should generally be replaced by an applicant that is selected through full and open competition. Programs that make institutional awards must conduct periodic reviews in accordance with the provisions of Chapter 16, Section K.2., of this Manual.

b. The Grants Officer is responsible for determining whether a program is designated as an institutional award program and may determine that only one or more awards under a program are institutional awards. Institutional awards should only be established between an operating unit and a recipient for long-term projects that are common to the programmatic goals and objectives of DOC and the recipient. Other projects of long-term duration may be funded using DOC Multi-Year funding procedures prescribed in Chapter 20 of this Manual.

3. Noncompetitive Awards

a. These awards are made without the benefit of competition. In those instances when noncompetitive awards are recommended for funding, complete and detailed justifications must be submitted by the Program Officer to the Grants Officer for review and approval. Noncompetitive awards using discretionary funds for a new award are allowed in only the following situations:

- (1) Future awards under institutional grant programs where the recipient should have been initially selected based on competition. The Program Office must provide to the Grants Officer summary information about the original competition, or waiver of competition, and the date and results of the latest periodic review.
- (2) In instances where an applicant submits an application on its own initiative (not as a result of a request by the funding agency), the application does not fall within the scope of a published competitive notice, and the agency determines in accordance with Chapter 8, Section F., of this Manual, that the application has merit and falls within one of the six listed categories.

b. Unless otherwise covered by a Broad Agency Announcement (BAA), if more than five percent (5%) of the total number of awards made under a program within one fiscal year are made on the basis of recipient initiative, the Program Officer and the Grants Officer should examine the current *Federal Register* notice and FFO, if they exist, and make any corrections deemed necessary to future notices so that the solicitation better reflects the goals or needs of the program.

B. Nondiscretionary Funds. Nondiscretionary funds are those funds for which DOC cannot exercise its judgment in selecting to whom the funds are awarded. Nondiscretionary funds are also referred to as “Congressionally-Mandated”. This includes “Earmarked” funds. The statutory authority is the basis for making awards with nondiscretionary funds. The two types of awards made with nondiscretionary funds are listed below.

1. Awards Mandated by Statute. These mandatory awards are made to organizations which are specifically named (not just generally described as to type of organization) in a statute and for which funds may be set aside in an appropriations act. The recipient is entitled to the award and has an enforceable right to receive financial assistance. These awards are also referred to as “hard earmarks”. This category does not include projects that are only contained in legislative history, which are referred to as “soft earmarks”.

2. Awards Limited by Statute. These awards are made to organizations for which eligibility has been limited by law to a particular class of applicants, every one of which has been notified of the availability of funding, and every applicant that applies and that meets statutory requirements is assured an award (e.g., there may be special language in an appropriations act directing an agency to make awards to every state that

applies for funding and meets certain criteria). Included in this category are NOAA programs which are listed in the *Federal Register* notice, "Guidelines for Nondiscretionary Financial Assistance," as published on April 28, 1994, (59 FR 21959). Depending upon the program and its legislation, there may be competition among the eligible applicants for additional funding as an incentive for receiving proposals for innovative or pilot/demonstration projects.

[**Note:** Some programs in DOC are authorized to make awards with both discretionary and nondiscretionary funds under different sections of their authorizing statutes.]